IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5588 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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M M VYAS

Versus

STATE OF GUJARAT

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Appearance:

MR JAGDISH MEHTA FOR MR YOGESH S LAKHANI for Petitioner

MS MANISHA LAVKUMAR, AGP, for Respondent

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 21/07/2000

ORAL JUDGEMENT

#. Heard the learned counsel for the parties.

#. It is not in dispute that the petitioner has been appointed on probation. His work was not found satisfactory during probation period. His probation

period was extended from time to time but still he has not improved himself and ultimately his services were brought to an end by a simpliciter termination. It is a case of simpliciter termination of a probationer which does not cast any stigma and the Tribunal has rightly not interfered in the matter. I do not find any substance in the contention of the learned counsel for the petitioner that extension of probation period for a long period of about three to four years is wholly perverse. It is true that that much of long extension of probation period may not be there but equally it is true that merely on this ground, simple discharge of the probationer cannot be held to be illegal or arbitrary. The learned counsel for the petitioner has failed to show any provision from the service rules regulating service conditions or Standing Orders or Resolutions of the Government that there is a provision for automatic confirmation of probationer after expiry of the period of probation or extended period thereof. In the absence of such provision given in the service rules or the Standing Orders or the Rules of the State Government, a probationer continues to be so until he is confirmed in service. Reference in this respect may have to decision of the apex court in the case of Director, Ministry of Coal & Ors. v. Bimlendu Kumar, reported in (1997)2 SCC 217. I do not find any perversity in the judgment of the Tribunal, both original as well as made in the review application filed by the petitioner.

#. During the course of arguments, the learned counsel for the petitioner made a grievance that after filing of this writ petition, the respondent has, by notice dated 19th September, 1994, asked the petitioner to return the articles mentioned therein. It is stated that the petitioner filed civil application but it is not on the Board. The learned counsel for the petitioner has failed to give out the stamp number or regular number of the civil application. However, a copy of the notice dated 19th September, 1994 is taken on record with the consent of learned counsel for the respondent. Looking to the facts of the case, it is expected of the respondent to order for waiver of these articles as mentioned in the aforesaid notice.

#. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, earlier granted stands vacated. No order as to costs. However, in case the respondent has not waived the demand of the articles aforesaid, liberty is granted to the petitioner for revival of this special civil application only to this extent.

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(sunil)